#### 109TH CONGRESS 1ST SESSION

# H.R.388

To provide for a Biofuels Feedstocks Energy Reserve, and to authorize the Secretary of Agriculture to make and guarantee loans for the production, distribution, development, and storage of biofuels.

# IN THE HOUSE OF REPRESENTATIVES

January 26, 2005

Ms. Kaptur (for herself, Mr. Abercrombie, Mr. Brown of Ohio, Mr. Filner, Mr. Grijalva, Mr. Hinchey, Mr. Kildee, Mr. Oberstar, Mr. Ryan of Ohio, and Mr. Strickland) introduced the following bill; which was referred to the Committee on Agriculture

# A BILL

To provide for a Biofuels Feedstocks Energy Reserve, and to authorize the Secretary of Agriculture to make and guarantee loans for the production, distribution, development, and storage of biofuels.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Biofuels Energy Inde-
- 5 pendence Act of 2005".
- 6 SEC. 2. FINDINGS.
- 7 The Congress finds as follows:

- 1 (1) The over reliance of the United States on 2 imported petroleum creates a major strategic vulner-3 ability for the Nation, with nearly half of the energy 4 supply of the United States dependent on foreign 5 sources.
  - (2) From the economically damaging Arab oil embargoes of 1973–74 and 1979 to the recession precipitated by rising oil prices which began in 1999, the economic stability of the United States has too often been shaken by economic forces outside its borders.
  - (3) Increasing fuel prices have been a particular hardship on small, independent businessmen, particularly truckers and farmers, who have no choice but to pay ever-increasing fuel bills while absorbing these higher costs in today's economic environment,
  - (4) This Act would shift America's dependence away from foreign petroleum as an energy source toward alternative, renewable, domestic agricultural sources. Its aim is to convert the current petroleum trade deficit to a trade balance by replacing foreign sources of supply with steady increases of biobased fuels through domestic production.
  - (5) Today, there are nearly 140,000,000 cars and 85,000,000 trucks on our highways. Of this

amount, approximately 3,300,000 cars and trucks already on our highways will run on 85 percent ethanol (E-85), and this number is increasing. For the 2005 model year, there are 20 different models of vehicles capable of running on E-85. Yet given this market, the alternative fuel is used less than 1 percent of the time given that of the more than 187,000 retail locations selling motor fuel in the United States, only 400 stations across 38 States sell E-85.

- (6) Biodiesel production is also dramatically increasing, going from 5,000,000 gallons in 2001 to nearly 25,000,000 gallons in 2003. Daimler-Chrysler has also announced its intentions to initially fuel the Diesel Jeep Liberty with a 5 percent biodiesel blend, the first time a vehicle has been explicitly fueled with an alternative fuel as it rolls off the production line.
- (7) Currently the United States annually consumes about 7,171,885,000 barrels of petroleum. (164,000,000,000 gallons of vehicle fuels and 5,600,00,000 gallons of heating oil.) In 2002, 62 percent of these fuels were imported, part of a total \$358,200,000,000 trade deficit with the rest of the world. Since 1983, the United States importation of

- petroleum and its derivatives has more than tripled, rising from 1,215,225,000 barrels in 1983 to 4,476,501,000 barrels in 2003.
  - (8) Further Strategic Petroleum Reserve policy should encourage domestic production to the greatest extent possible. Currently, the Strategic Petroleum Reserve holds 670,700,000 barrels (out of a potential 727,000,000 barrels), sufficient to cushion the United States from wild price swings for a period of 53 days. None of the fuel in this Reserve is bio-based. In fact, 92.2 percent of the Strategic Petroleum Reserve has been purchased from foreign sources—41.9 percent from Mexico, 24 percent from the United Kingdom, and over 20 percent from OPEC nations.
    - (9) Strategic Petroleum Reserve policy also should encourage the development of alternatives to the Nation's reliance on petroleum such as biomass fuels.
    - (10) As a first step in diversification, the Strategic Petroleum Reserve should exchange 2,100,000 barrels from our current reserves for 32,000,000 gallons of ethanol and biodiesel, which would comprise less than 2 percent of the United States market, but yield a doubling of ethanol products.

1	(11) The benefits of biofuels are as follows:
2	(A) Energy security.—
3	(i) Biofuels hold potential to address
4	our dependence on foreign energy sources
5	immediately. With agricultural surpluses,
6	commodity prices have reached record
7	lows; concurrently world petroleum prices
8	have reached record highs and are ex-
9	pected to continue rising as global petro-
10	leum reserves are drawn down over the
11	next 25 years. It also is clear that eco-
12	nomic conditions are favorable to utilize
13	domestic surpluses of biobased oils to en-
14	hance the Nation's energy security.
15	(ii) In the short term, biofuels can
16	supply at least one-fifth of current United
17	States fuel demand using existing tech-
18	nologies and capabilities. Additional plant
19	research, newer processing and distribution
20	technologies, and placing additional acres
21	under cultivation can yield even greater re-
22	sults.
23	(iii) Biofuels can be used with existing
24	petroleum infrastructure and conventional
25	equipment.

1	(B) Economic security.—
2	(i) Continued dependence upon im-
3	ported sources of oil means our Nation is
4	strategically vulnerable to disruptions in
5	our oil supply.
6	(ii) Renewable biofuels domestically
7	produced directly replace imported oil.
8	(iii) Increased use of renewable
9	biofuels would result in significant eco-
10	nomic benefits to rural and urban areas
11	and also reduce the trade deficit.
12	(iv) According to the Department of
13	Agriculture, a sustained annual market of
14	100,000,000 gallons of biodiesel alone
15	would result in \$170,000,000 in increased
16	income to farmers.
17	(v) Farmer-owned biofuels production
18	has already resulted in improved income
19	for farmers, as evidenced by the experience
20	with State-supported rural development ef-
21	forts in Minnesota where prices to corn
22	producers have been increased by \$1.00
23	per bushel. With the Department of Agri-
24	culture having forecast prices of \$2.10 per

bushel of corn for the 2004–2005 mar-

1	keting year, the portion of the corn crop
2	that goes for ethanol has a farm value of
3	\$2,100,000,000.
4	(C) Environmental security.—
5	(i) The use of grain-based ethanol re-
6	duces greenhouse gas emissions from 35 to
7	46 percent compared with conventional
8	gasoline. Biomass ethanol provides an even
9	greater reduction.
10	(ii) The American Lung Association
11	of Metropolitan Chicago credits ethanol-
12	blended reformulated gasoline with reduc-
13	ing smog-forming emissions by 25 percent
14	since 1990.
15	(iii) Ethanol reduces tailpipe carbon
16	monoxide emissions by as much as 30 per-
17	cent.
18	(iv) Ethanol reduces exhaust volatile
19	organic compounds emissions by 12 per-
20	cent.
21	(v) Ethanol reduces toxic emissions by
22	30 percent.
23	(vi) Ethanol reduces particulate emis-
24	sions, especially fine-particulates that pose

1	a health threat to children, senior citizens,
2	and those with respiratory ailments.
3	(vii) Biodiesel contains no sulfur or
4	aromatics associated with air pollution.
5	(viii) The use of biodiesel provides a
6	$78.5$ percent reduction in $CO_2$ emissions
7	compared to petroleum diesel and when
8	burned in a conventional engine provides a
9	substantial reduction of unburned hydro-
10	carbons, carbon monoxide, and particulate
11	matter.
12	TITLE I—NATIONAL BIOFUELS
13	DEVELOPMENT
14	SEC. 101. LOANS AND LOAN GUARANTEES.
15	(a) In General.—The Secretary of Agriculture (in
16	this section referred to as the "Secretary") may make and
17	guarantee loans for the production, distribution, develop-
18	ment, and storage of biofuels.
19	(b) Eligibility.—
20	(1) In general.—Except as provided in para-
21	graph (2), an applicant for a loan or loan guarantee
22	under this section shall be eligible to receive such a
23	loan or loan guarantee if—
24	(A) the applicant is a farmer, member of
25	

operative, municipal entity, nonprofit corporation, State, or Territory; and

- (B) the applicant is unable to obtain sufficient credit elsewhere to finance the actual needs of the applicant at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.
- (2) Loan guarantee eligibility precludes Loan eligibility.—An applicant who is eligible for a loan guarantee under this section shall not be eligible for a loan under this section.

# (c) Loan Terms.—

- (1) Interest shall be payable on a loan under this section at the rate at which interest is payable on obligations issued by United States for a similar period of time.
- (2) Repayment period.—A loan under this section shall be repayable in not less than 5 years and not more than 20 years.
- 23 (d) Revolving Fund.—

- 1 (1) ESTABLISHMENT.—The Secretary shall establish a revolving fund for the making of loans under this section.
- 4 (2) Deposits.—The Secretary shall deposit 5 into the revolving fund all amounts received on ac-6 count of loans made under this section.
- 7 (3) PAYMENTS.—The Secretary shall make 8 loans under this section, and make payments pursu-9 ant to loan guarantees provided under this section, 10 from amounts in the revolving fund.
- 11 (e) REGULATIONS.—The Secretary may prescribe 12 such regulations as may be necessary to carry out this 13 section.
- (f) Limitations on Authorization of Appropria-15 tions.—For the cost (as defined in section 502(5) of the 16 Federal Credit Reform Act of 1990) of loans and loan 17 guarantees under this section, there are authorized to be 18 appropriated to the revolving fund established under sub-19 section (d) of this section such sums as may be necessary 20 for fiscal years 2005 through 2010.

### II—BIOFUELS TITLE FEED-1 **STOCKS ENERGY** RESERVE 2 **PROGRAM** 3 SEC. 201. ESTABLISHMENT. 4 5 The Secretary of Agriculture (in this title referred to as the "Secretary") may establish and administer a re-6 serve of agricultural commodities (known as the "Biofuels 7 8 Feedstocks Energy Reserve") for the purpose of— 9 (1) providing feedstocks to support and further 10 the production of energy from biofuels; and 11 (2) supporting the biofuels energy industry 12 when production is at risk of declining due to re-13 duced feedstocks or significant commodity price in-14 creases. SEC. 202. PURCHASES. 15 16 (a) In General.—The Secretary may purchase agricultural commodities at commercial rates, subject to sub-17 section (b), in order to establish, maintain, or enhance the 18 19 Biofuels Feedstocks Energy Reserve when— 20 (1)(A) the commodities are in abundant supply; 21 and 22 (B) there is need for adequate carryover stocks 23 to ensure a reliable supply of the commodities to 24 meet the purposes of the reserve; or

- 1 (2) it is otherwise necessary to fulfill the needs
- 2 and purposes of the biofuels energy reserve program.
- 3 (b) LIMITATION.—The agricultural commodities pur-
- 4 chased for the Biofuels Feedstocks Energy Reserve shall
- 5 be—
- 6 (1) of the type and quantity necessary to pro-
- 7 vide not less than 1-year's utilization for renewable
- 8 energy purposes; and
- 9 (2) in such additional quantities to provide in-
- centives for research and development of new renew-
- able fuels and bio-energy initiatives.
- 12 SEC. 203. RELEASE OF STOCKS.
- Whenever the market price of a commodity held in
- 14 the Biofuels Feedstocks Energy Reserve exceeds 100 per-
- 15 cent of the economic cost of producing the commodity (as
- 16 determined by the Economic Research Service using the
- 17 best available information, and based on a 3-year moving
- 18 average), the Secretary shall release stocks of the com-
- 19 modity from the reserve at cost of acquisition, in amounts
- 20 determined appropriate by the Secretary.
- 21 SEC. 204. STORAGE PAYMENTS.
- 22 (a) IN GENERAL.—The Secretary shall provide for
- 23 the storage of agricultural commodities purchased for the
- 24 Biofuels Feedstocks Energy Reserve by making payments

1	to producers for the storage of the commodities. The pay-
2	ments shall—
3	(1) be in such amounts, under such conditions,
4	and at such times as the Secretary determines ap-
5	propriate to encourage producers to participate in
6	the program; and
7	(2) reflect local, commercial storage rates, sub-
8	ject to appropriate conditions concerning quality
9	management and other factors.
10	(b) Announcement of Program.—
11	(1) Time of announcement.—The Secretary
12	shall announce the terms and conditions of the stor-
13	age payments for a crop of a commodity by—
14	(A) in the case of wheat, December 15 of
15	the year in which the crop of wheat was har-
16	vested;
17	(B) in the case of feed grains, March 15
18	of the year following the year in which the crop
19	of corn was harvested; and
20	(C) in the case of other commodities, such
21	dates as may be determined by the Secretary.
22	(2) Content of announcement.—In the an-
23	nouncement, the Secretary shall specify the max-
24	imum quantity of a commodity to be stored in the
25	Biofuels Feedstocks Energy Reserve that the Sec-

- 1 retary determines appropriate to promote the orderly
- 2 marketing of the commodity, and to ensure an ade-
- 3 quate supply for the production of biofuels.
- 4 (c) RECONCENTRATION.—The Secretary may, with
- 5 the concurrence of the owner of a commodity stored under
- 6 this program, reconcentrate the commodity stored in com-
- 7 mercial warehouses at such points as the Secretary con-
- 8 siders to be in the public interest, taking into account such
- 9 factors as transportation and normal marketing patterns.
- 10 The Secretary shall permit rotation of stocks and facilitate
- 11 maintenance of quality under regulations that assure that
- 12 the holding producer or warehouseman shall, at all times,
- 13 have available for delivery at the designated place of stor-
- 14 age both the quantity and quality of the commodity cov-
- 15 ered by the producer's or warehouseman's commitment.
- 16 (d) Management.—Whenever a commodity is stored
- 17 under this section, the Secretary may buy and sell at an
- 18 equivalent price, allowing for the customary location and
- 19 grade differentials, substantially equivalent quantities of
- 20 the commodity in different locations or warehouses to the
- 21 extent needed to properly handle, rotate, distribute, and
- 22 locate the commodity that the Commodity Credit Corpora-
- 23 tion owns or controls. The purchases to offset sales shall
- 24 be made within 2 market days following the sales. The

- 1 Secretary shall make a daily list available showing the
- 2 price, location, and quantity of the transactions.
- 3 (e) Review.—In announcing the terms and condi-
- 4 tions under which storage payments will be made under
- 5 this section, the Secretary shall review standards con-
- 6 cerning the quality of a commodity to be stored in the
- 7 Biofuels Feedstocks Energy Reserve, and such standards
- 8 should encourage only quality commodities, as determined
- 9 by the Secretary. The Secretary shall review inspection,
- 10 maintenance, and stock rotation requirements and take
- 11 the necessary steps to maintain the quality of the commod-
- 12 ities stored in the reserve.

#### 13 SEC. 205. USE OF COMMODITY CREDIT CORPORATION.

- 14 The Secretary shall use the Commodity Credit Cor-
- 15 poration, to the extent feasible, to carry out this title. To
- 16 the maximum extent practicable consistent with the effec-
- 17 tive and efficient administration of this title, the Secretary
- 18 shall utilize the usual and customary channels, facilities,
- 19 and arrangements of trade and commerce.

#### 20 SEC. 206. REGULATIONS.

- Not later than 60 days after the date of the enact-
- 22 ment of this Act, the Secretary shall issue such regulations
- 23 as are necessary to carry out this title.

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